

REMARKS

Claims 76, 79, 81, 83, 86, 87, 89, 91, and 93-96 remain pending in the present application. The proposed amendment to claims 81 and 87 is submitted to clarify the antecedent basis for the two nonwoven layers described therein. The proposed amendment to claims 76, 79, 83, and 86 to specify that the multiple nonwoven layers of hard yarn meltspun polyolefin fibers are "constituted of the same single polymer" finds basis at page 14, lines 11-15, wherein Applicants disclose that the fabric samples therein (Examples 41 and 42) were made from two plies of the hand made polypropylene continuous fiber webs, similar to those of Examples 38-40; and at page 15, lines 13-15. While the phrase "constituted of the same single polymer" is not supported *ipsis verbis*, Applicants submit that the skilled artisan would readily recognize that the multiple plies used to make the fabrics of Examples 41 and 42 were made from two plies of webs of the same single polymer by the language set forth therein.

In the interest of compact prosecution, the fact that the present application has been made "special", because the amendment would appear to overcome the outstanding rejection, raises no new issues and would not require further search by the Examiner, entry of the amendment is respectfully requested. Alternatively, entry of the amendment is requested in order to place the claims into better form for consideration on appeal.

Rejection under 35 U.S.C. §102/103

Claims 76, 79, 81, 83, 86, 87, 89, 91, and 93-96 stand rejected under 35 U.S.C. §102(e) as anticipated by, or in the alternative under 35 U.S.C. §103(a) as obvious over Ofosu et al. (U.S. Patent No. 6,268,302). Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

Initially, it is unclear from the Final Office Action, issued January 13, 2005 (page 2, paragraph 3) whether the Examiner has withdrawn this recited rejection, or maintained the rejection; and if the latter, over what claims. Applicants will assume that the Examiner intended to maintain the rejection over all claims.

Ofosu et al. disclose that an object of their invention is to "provide a spunbond polyolefin nonwoven fabric or web which is softer than those conventionally produced but which has comparable strength characteristics" (col. 1, lines 36-40), which is

Application No.: 10/762721
Docket No.: SS2910USCNT1

Page 6

obtained by making a "multilayer laminate of a first web of high melt flow polymer fibers and a second web of low melt flow polymer fibers" (col. 1, lines 41-45). In particular, the web of low melt flow polymer fibers is made from a polyolefin polymer with a melt flow rate below 50 g/10 min; and the web of high melt flow polymer fibers is made from a polyolefin with a melt flow rate above 50 g/10 min, both as measured at 230° C (col. 1, lines 45-50; col. 2, lines 1-8). Thus, the multiple spunbond layers of the Ofosu et al. fabrics are distinctly different in strength and softness and are not made from the same single polymer, but from two polymers having quite different melt flow rates. The two polymers of Ofosu et al. are not the same single polymer because they are drastically different in melt flow rate.

Ofosu et al. suggest that their fabric can have an intermediate meltblown web or film layer disposed between the different spunbond layers (col. 8, lines 47-51).

As recognized by the Examiner, Ofosu et al. fail to disclose or suggest any particular combination of barrier properties (i.e. Frazier permeability and hydrostatic head) that might be obtainable by their fabric.

In contrast, according to the present claims, a thermally bonded nonwoven fabric is provided which comprises multiple nonwoven layers of hard yarn meltspun polyolefin fibers *constituted of the same single polymer*, and at least one nonwoven polyolefin layer comprising fibers having cross-sectional areas of less than about 75 μm^2 (claim 76). The multiple nonwoven layers of hard yarn meltspun polyolefin fibers, which can be spunbond fibers (claim 81) are essentially the same, but for the fact that at least one layer has a repellent fluorocarbon finish (claim 76).

The skilled artisan would not have been motivated to modify the Ofosu et al. fabric to include multiple nonwoven layers of hard yarn meltspun polyolefin fibers of the same single polymer, since to do so would negatively affect the softness of the Ofosu et al. fabric, and therefore destroy the function of the Ofosu et al. invention.

As such, Ofosu et al. cannot be said to either anticipate or establish a *prima facie* case of obviousness as to the present claims. Withdrawal of the rejection is requested.

Rejection under 35 U.S.C. §102/103

Claims 76, 79, 81, 83, 86, 87, 89, 91, and 93-96 stand rejected under 35 U.S.C. §103(a) as obvious over Ofosu et al. in view of McAmish et al. (U.S. Patent

Application No.: 10/762721
Docket No.: SS2910USCNT1

Page 7

No. 4,908,163). Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

Applicants reiterate their comments in traverse of application of the Ofosu et al. reference.

McAmish et al. is relied upon by the Examiner for the proposition that it would have been obvious at the time of the invention to modify the Ofosu et al. fabric with a fluorochemical to enhance repellency.

However, McAmish et al. fails to address the underlying deficiency of Ofosu et al. as to the present claims, as set forth above. There is nothing within the McAmish et al. disclosure that would motivate the skilled artisan to add a second nonwoven layer of hard yarn meltspun polyolefin fibers of the same single polymer as the first layer to the Ofosu et al. fabric. Further, even if McAmish et al. provided support for such an addition, the skilled artisan would not have been motivated to make such an addition to Ofosu et al., since to do so would destroy the function of the Ofosu et al. invention.

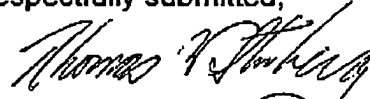
Withdrawal of the rejection for failure to establish a *prima facie* case of obviousness is requested.

Application No.: 10/762721
Docket No.: SS2910USCNT1

Page 8

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



THOMAS W. STEINBERG
ATTORNEY FOR APPLICANT
Registration No.: 37,013
Telephone: (302) 892-0887
Facsimile: (302) 892-7343

Dated: February 04, 2005

TWS:fgl